

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re:     David Roldan	) Case Number: 17-15876
Kathleen Ann Roldan	) Chapter 13 Proceedings
Debtor(s)	) Judge Arthur I. Harris

**TRUSTEE'S MOTION TO MODIFY DEBTORS' CONFIRMED PLAN**

Now comes **LAUREN A. HELBLING**, the duly appointed, qualified, and standing Chapter 13 Trustee ("Trustee") herein, and hereby moves this Honorable Court to modify the Debtors' confirmed Chapter 13 Plan ("plan") pursuant to Section 1329 of the Bankruptcy Code. In support of this motion, the Trustee makes the following representations to the Court:

1. The Debtors filed a petition under Chapter 13 of Title 11, U.S.C. on October 4, 2017. The Debtors' plan was confirmed on February 7, 2018. The current plan payment is \$706.73 per month, with the unsecured creditors receiving \$27,500 or a 20% dividend, whichever is greater. Unsecured creditors filed allowed claims totaling \$105,658.78. According to the Trustee's calculations, the plan is currently running 59 months in length.
2. At the time the within case was filed, the Debtors listed net income from rental property and from operating a business, profession or farm on Schedule I as approximately \$600.00 per month or \$7,200.00 per year. A review of the Debtors' 2018 tax return shows that the annual profit from Speedy Courier Service was \$33,894.00. As a result, the Debtors' income is substantially higher than when this case was filed. After taking into consideration additional taxes, expenses and cost of living increases, it appears the Debtors can now afford to increase their plan payment by \$1,500.00 per month. When this amount is added to the current plan payment, the new adjusted plan payment would be \$2,206.73 per month.
3. The Debtors are "above-median income" debtors and the applicable commitment period is 60 months. Once the plan payment is increased as requested, the plan would run less than 60 months, which is contrary to the requirement listed in Article 1 of the plan.
4. Section 1329(a)(1) of the Bankruptcy Code provides that the plan may be modified at any time after confirmation (but before completion of payments under the plan) in order to increase the amount to be paid to unsecured creditors. Section 1325(a) of the Code requires that such a modification be offered in "good faith". Based on the information provided herein, it would be appropriate to modify the Debtors' plan to increase the plan payment to \$2,206.73 per month and to increase the payment to unsecured creditors to \$73,961.18 or 70%, whichever is greater.

**WHEREFORE** your Trustee, being a proper party in interest, hereby moves this Honorable Court to enter an order modifying the Debtors' plan in accordance with the recommendations listed in this motion and for the reasons cited.

/S/ Lauren A. Helbling

LAUREN A. HELBLING (#0038934)

Chapter 13 Trustee

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### **CERTIFICATE OF SERVICE**

I certify that on January 28, 2020 a true and correct copy of the Trustee's Motion to Modify Debtors' Confirmed Plan was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

R. J. Budway, on behalf of David and Kathleen Ann Roldan, Debtors, at [attyrjb1@hotmail.com](mailto:attyrjb1@hotmail.com)

And by regular U.S. mail, postage prepaid, on:

David and Kathleen Roldan, Debtors, 413 Berry Ridge Drive, Amherst, OH 44001

See attached list.

/S/ Lauren A. Helbling

LAUREN A. HELBLING (#0038934)

Chapter 13 Trustee

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